

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1176 of 1997

LETTERS PATENT APPEAL NO.1179 of 1997

in

CIVIL APPLICATIONNO 8522 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and
MR.JUSTICE S.D.PANDIT

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GUJARAT ELECTRICITY BOARD

Versus

AJITKUMAR KESHAVLAL VAGHELA

Appearance:

MR UI VYAS for Petitioner

CORAM : MR.JUSTICE C.K.THAKKER and
MR.JUSTICE S.D.PANDIT

Date of decision: 19/09/97

ORAL JUDGEMENT (per Thakker J.)

These two Letters Patent Appeals are filed against orders passed in Civil Application Nos. 8522 of

1997 and 8523 of 1997. Those applications were instituted to recall an order passed by the learned Single Judge in the main matter i.e. Special Civil Application No. 4886 of 1997 and 4887 of 1996. The said order reads as under:

"None of the learned Advocates is present. Rule.

By way of interim relief, it is ordered that any appointment made to the post plant operator Grade-I pursuant to the interviews held on 8th April, 1997 shall be ad-hoc and temporary and be subject to the result of this petition."

In two Civil Applications, it was stated that when the matters were on Board, advocate for the petitioner had some personal difficulties in conducting the matters and hence he wanted adjournment. He, therefore, requested the advocate for the respondent (not advocate of the present appellant), so that he may not object to such an adjournment. Advocate for the present appellant agreed and said that he had no objection if the matters would be adjourned. It, however, appears that no mention was made and when the matters were called out the orders extracted above came to be passed.

In Civil Applications, therefore, the present appellant made a prayer to quash and set aside the order passed in the main matter as it was not his fault due to which the above order was passed. In fact, it was the request of the advocate for the petitioner which was not objected by the advocate for the present appellant.

Mr.Vyas, learned counsel for the appellant submitted that in these circumstances by not granting application the learned Single Judge has committed an error of law in not setting aside the order passed in the main matter, but by rejecting them illegality has been committed.

Looking to the order passed in the main matter, however, in our opinion, no interference is called for. It may be true that an order came to be passed in absence of the learned Counsel for the respondent because the counsel for the petitioner had some personal difficulty and he wanted adjournment which was not objected by the learned counsel for the present appellant. But the order, as otherwise, cannot be said to be illegal and hence we do not see any infirmity in the said order which protects the interest of all the parties concerned. The present Letters Patent Appeals are, therefore, deserve to be dismissed without observing anything on merits.

Accordingly they are dismissed. No order as to costs.

Dt. 19.9.1997. (C.K.THAKKER J.)

(S.D.PANDIT J.)